

DETAILED ACTION

1. Claims 1, 2, 4, 7-9, 13, and 15-22 are pending.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 13 recites "record medium" in line 1 but there is no support in the disclosure. page 28 lines 9-15 of the disclosure merely disclose the record medium as being program and therefore the disclosure lacks antecedent basis. Appropriate correction is required.

Claim Objections

3. Claim 13 is objected to because in line 8 the word "the steps" should be changed to "steps" for proper antecedent basis. Appropriate correction is required in response to this office action.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1, 2, 4, 7, and 15-16 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter as failing to fall within a statutory category and as being directed to software per se (although the preamble of claim 1 recites a "apparatus" it does not inherently mean that the claim is directed to a machine). The "apparatus" as recited may be reasonably interpreted to be software alone since the elements or features of the claim are not necessarily

implemented in hardware. The specification also describes on page 17 lines 19-27, the determining means as software. Therefore there is no hardware element claimed in the system claim. Therefore, claims 1, 2, 4, 7, and 15-16 could then be software per se. See MPEP 2106.

6. Claims 9 and 19-20 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter as failing to fall within a statutory category invention. Claims 9 and 19-20 are directed to software per se, not a process/method occurring as a result of executing the program, neither a machine programmed to operate in accordance with the program nor a manufacture structurally and functionally interconnected with the program in a manner which enables the program to act as a computer component and realize its functionality. Claims 9 and 19-20 are also clearly not directed to a composition of matter. Therefore, they are non-statutory under 35 USC 101.

Response to Amendment

7. Applicant's arguments with respect to amended claims 1-2, 4, 7-9, 13, and 15-22 have been considered but are not persuasive.

Regarding argument Schneck does not disclose a separate detecting means as recited in all independent claims, wherein "at a location which is remote from the first terminal unit and the second terminal unit", remark page 12 par. 1, argument is not persuasive because Schneck discloses an access mechanism 114 and rules 116 of the distributor 102/190 (*apparatus*) that is remotely connected via a network (0126; *eg. fig. 8 element 174*) the user/authorized 104/170 (*first terminal*) (0086 and 0136); determines and controls the

authorized user from retransmitting (0043, and 0251-0253) the copyrighted data to the network device/printer (*second terminal; fig. 8 elements 159, 178*) (0161-0168 and 0131)

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-2, 4, 7-9, 13, 15, 17, 19, and 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Schneck et al. (herein after Schneck) US PG PUBS 2001/0021926 A1. in view of Moskowitz Pub. No. 2001/0010078 A1.

Regarding claims 1, 8, 9, and 13 Schneck discloses a copyright licensing process promoting apparatus/method/program/medium for promoting a copyright licensing process for literary work data desired to be transmitted from a first terminal unit of a first user to a second terminal unit of a second user via a communication network (0042-0070), said apparatus comprising:

detecting means for accessing the first terminal unit of the first user by way of the communication network and for detecting at the first terminal unit a file of the literary work data to be transmitted from the first terminal unit to the communication network, said detecting means being operable to detect the file at the first terminal unit before the file is transmitted to the communication network (**0136, 0286, 0295, 0323**, 0043, 0134, 0046, 0251-0254, 0161-0168,

0295, and claim 4; *detecting access rights **before** allowing secondary distribution of data/redistribution*);

content determining means for determining whether a content of the file to be transmitted to the communication network and detected by said detecting means is valid (claims 2, 67, 45-46, and 0178; *determining access right rules is data transmission requested valid or not? ...*);

file processing means for performing a predetermined process for the file before the file is transmitted to the communication network when a result of said content determining means is not valid; and

said apparatus being connectable to the communication network at a location which is remote from the first terminal unit and the second terminal unit (fig. 8-9, fig. 15, 0251-0253, 0131, and 0240).

Schneck fails to explicitly disclose wherein the content determining means includes a feature extracting means for extracting a feature pattern from the file and compare the feature pattern with a plurality of stored feature patterns to determine the content of the file, as amended and argued remark page 11 par. 4. However, Moskowitz discloses a method of copyrights and/or content protection in using digital watermarking (see abstract and par. 0004 lines 17-25). The method comprising compressing (par. 0033 lines 7-8) song content (par. 0026), extracting a block/segment, performing Fast Fourier transform (FFT) on the extracted segment to perform frequency domain (see par. 0033 lines 7-20, par. 0037 lines 8-12) and compare the generated result and/or hash with stored to determine the message/content of the file/song (see par. 0033, 0037, and claim 1).

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the teachings of Moskowitz within the system of Schneck because they are analogous in content protection. One would have been motivated to do so because it would protect content owners rights in using FFT to enhance security.

As per claim 2, Schneck further discloses the copyright licensing process promoting apparatus, further comprising:

searching means for searching for a location on a predetermined list, referenced via the communication network, at which the file of the literary work data is stored (fig. 13),

wherein said detecting means detects the file being transmitted, the file to be stored at the location searched by said searching means (0251-0254, and 0230-0248).

As per claim 4, Schneck further discloses the copyright licensing process promoting apparatus, further comprising:

literary work data determining means for determining whether the content of the file to be transmitted is literary work data (0089, and 0011); and

copyright licensing process, determining means for determining whether a copyright licensing process has been performed for the literary work data (abstract),

wherein said content determining means determines that the content of the file is valid corresponding to a result of said literary work data determining means and result of said copyright licensing process determining means, and said literary work data determining means represents that the content of the file is literary work data and said copyright licensing

process determining means represents that the copyright licensing process has not been performed for the file (0097-0099).

As per claim 7, Schneck further teaches the copyright licensing process promoting apparatus, further comprising:

informing means for informing the first user of the terminal unit that the content of the file is not valid when a result of said content determining means represents that the content of the file is not valid (fig. 11 element S1126, and 0169),

wherein said file processing means performs the predetermined process when the first terminal unit tries to transmit the file although said informing means has informed the first user that the content of the file is not valid (fig. 11 element S1126, 0251-0254, and 0169).

Regarding claims 15, 17, 19, and 21, Schneck discloses the copyright licensing process prompting apparatus wherein the predetermined process for the file is a destruction of the file (claims 56, 43, par. 0139, 0184, 0133, 0055; *destroying/deleting data when illegal access and/or illegal transmission of content to second person is detected*).

10. Claims 16, 18, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneck et al. (herein after Schneck) US PG PUBS 2001/0021926 A1 and Moskowitz Pub. No. 2001/0010078 A1 and further in view of Kobata et al. USPG PUBs 2002/0077985 A1.

Regarding claims 16, 18, 20, and 22, Schneck and Moskowitz discloses the copyright licensing process promoting apparatus further comprising means for transmitting a warning message to the

second terminal unit when a result of said content determining means represents that the content of the file is not valid (Schneck 0253; if transmission request is not valid transmitting and displaying random data/number or encrypted content that is a warning for not allowed content and the user must contact with the distributor for permission rights).

The combination discloses authenticating transmission access and if not valid denying access to first and second user and transmitting random number/data or encrypted data to the second user (Schneck 0253). The combination does not explicitly disclose warning the authorized user. However Kobata et al. discloses remote authenticator authenticating usage access request and if not valid transmitting a denying message to the user (0135). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Kobata et al. within the combination system because they are analogous in digital data access rights authentication. One would have been motivated to incorporate the teachings of warning the users when access is not authorized is because to clearly notify the result of the authenticating to users and users based on the warning message could perform actions like upgrading license, buying new license and etc.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELENI A. SHIFERAW whose telephone number is (571)272-3867. The examiner can normally be reached on Mon-Fri 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser R. Moazzami can be reached on (571) 272-4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eleni A Shiferaw/
Examiner, Art Unit 2136
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